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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,710	10/28/2003	Henry E. Juszkiewicz	N9649	5203
23456	7590 09/18/2006		EXAMINER	
WADDEY & PATTERSON, P.C.			DONELS, JEFFREY	
1600 DIVISION STREET, SUITE 500 NASHVILLE, TN 37203			ART UNIT	PAPER NUMBER
	,		2837	•
		DATE MAILED: 09/18/2006		

Please find below and/or attached an Office communication concerning this application or proceeding.

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		Application No.	Applicant(s)	
		10/694,710	JUSZKIEWICZ ET AL.	
	Office Action Summary	Examiner	Art Unit	
		Jeffrey Donels	2837	
 Period for	The MAILING DATE of this communication app Reply	ears on the cover sheet with the c	orrespondence address	
WHICH - Extensi after SI - If NO p - Failure Any rep	RTENED STATUTORY PERIOD FOR REPLY IEVER IS LONGER, FROM THE MAILING DA ons of time may be available under the provisions of 37 CFR 1.13 X (6) MONTHS from the mailing date of this communication. eriod for reply is specified above, the maximum statutory period w to reply within the set or extended period for reply will, by statute, ly received by the Office later than three months after the mailing patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).	
Status				
2a)□ T 3)□ S	Responsive to communication(s) filed on this action is FINAL . 2b) This ince this application is in condition for allowant losed in accordance with the practice under <i>E</i>	- action is non-final. nce except for formal matters, pro		
Dispositio	n of Claims			
5)	Claim(s) 1-56 is/are pending in the application. a) Of the above claim(s) is/are withdraw claim(s) is/are allowed. Claim(s) is/are rejected. Claim(s) is/are objected to. Claim(s) 1-56 are subject to restriction and/or expense specification is objected to by the Examiner ne drawing(s) filed on is/are: a) acception and acception of the complicant may not request that any objection to the complicant of the deplacement drawing sheet(s) including the corrections oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath or declaration is objected to by the Examiner oath of the control of the oath oath of the oath oath of the oath	election requirement. r. epted or b) objected to by the Edrawing(s) be held in abeyance. See on is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).	
			7 (3) (3) (3) (4) (4) (4) (4) (4) (4) (4) (4) (4) (4	
Priority under 35 U.S.C. § 119 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.				
2) 🔲 Notice o 3) 🔯 Informa	of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (PTO-948) tion Disclosure Statement(s) (PTO/SB/08) o(s)/Mail Date 20050526	4) Interview Summary (Paper No(s)/Mail Da 5) Notice of Informal Pa 6) Other:	te	

U.S. Patent and Trademark Office PTOL-326 (Rev. 08-06)

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-32,49-56, drawn to a digital media communications and control system, classified in class 84, subclass 600.
- Claims 33-48, drawn to a musical instrument, classified in class 84, subclass 600.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as combination and subcombination, respectively. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not recite the *plurality* of audio devices, the universal data link with full duplex communication. The subcombination has separate utility such as the playing of prerecorded audio in a system with no musician present.

The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or

includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Donels whose telephone number is 571-272-2061. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-2800 ext 37. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Vefifey Bonels Primary Examiner Art Unit 2837